

JS 44 (Rev. 12/07, NJ 5/08)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

MARILYN FELTNER-COLLINS

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire  
 Kimmel & Silverman, P.C.  
 30 E. Butler Pike  
 Ambler, PA 19002  
 (215) 540-8888

**DEFENDANTS**

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant \_\_\_\_\_

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- |  |  |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)   |

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

| Citizen of This State      | PTF                        | DEF                        | Citizen of Another State   | PTF                        | DEF                        |
|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 |
|                            |                            |                            |                            |                            |                            |
|                            |                            |                            |                            |                            |                            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

| CONTRACT  | TORTS   | FORFEITURE/PENALTY  | BANKRUPTCY  | OTHER STATUTES   |
|---|---|---|---|--|
| <input type="checkbox"/> 110 Insurance  | <input type="checkbox"/> PERSONAL INJURY                        | <input type="checkbox"/> PERSONAL INJURY                                | <input type="checkbox"/> 610 Agriculture                                    | <input type="checkbox"/> 400 State Reapportionment                                     |
| <input type="checkbox"/> 120 Marine   | <input type="checkbox"/> 310 Airplane                           | <input type="checkbox"/> 362 Personal Injury - Med. Malpractice         | <input type="checkbox"/> 422 Appeal 28 USC 158                              | <input type="checkbox"/> 410 Antitrust   |
| <input type="checkbox"/> 130 Miller Act   | <input type="checkbox"/> 315 Airplane Product Liability         | <input type="checkbox"/> 365 Personal Injury - Product Liability        | <input type="checkbox"/> 423 Withdrawal 28 USC 157                          | <input type="checkbox"/> 430 Banks and Banking   |
| <input type="checkbox"/> 140 Negotiable Instrument                                | <input type="checkbox"/> 320 Assault, Libel & Slander           | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | <input type="checkbox"/> 450 Commerce                                       | <input type="checkbox"/> 440 Deportation   |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment    | <input type="checkbox"/> 330 Federal Employers' Liability       | <input type="checkbox"/> 370 Other Fraud                                | <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations | <input type="checkbox"/> 480 Consumer Credit   |
| <input type="checkbox"/> 151 Medicare Act   | <input type="checkbox"/> 340 Marine Product Liability           | <input type="checkbox"/> 371 Truth in Lending                           | <input type="checkbox"/> 490 Cable/Sat TV                                   | <input type="checkbox"/> 510 Selective Service   |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) | <input type="checkbox"/> 345 Marine Product Liability           | <input type="checkbox"/> 380 Other Personal Property Damage             | <input type="checkbox"/> 820 Copyrights                                     | <input type="checkbox"/> 850 Securities/Commodities Exchange                           |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits        | <input type="checkbox"/> 350 Motor Vehicle                      | <input type="checkbox"/> 385 Property Damage Product Liability          | <input type="checkbox"/> 830 Patent   | <input type="checkbox"/> 875 Customer Challenge 12 USC 3410                            |
| <input type="checkbox"/> 160 Stockholders' Suits                                  | <input type="checkbox"/> 355 Motor Vehicle Product Liability    | <input type="checkbox"/> 390 Other Personal Injury                      | <input type="checkbox"/> 840 Trademark                                      | <input type="checkbox"/> 890 Other Statutory Actions                                   |
| <input type="checkbox"/> 190 Other Contract                                       | <input type="checkbox"/> 360 Other Personal Injury              | <input type="checkbox"/> 400 Civil Rights                               | <input type="checkbox"/> 710 Fair Labor Standards Act                       | <input type="checkbox"/> 891 Agricultural Acts   |
| <input type="checkbox"/> 195 Contract Product Liability                           |   |   | <input type="checkbox"/> 720 Labor/Mgmt. Relations                          | <input type="checkbox"/> 892 Economic Stabilization Act                                |
| <input type="checkbox"/> 196 Franchise  |   |   | <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act         | <input type="checkbox"/> 893 Environmental Matters                                     |
| <input type="checkbox"/> REAL PROPERTY  | <input type="checkbox"/> CIVIL RIGHTS                           | <input type="checkbox"/> PRISONER PETITIONS                             | <input type="checkbox"/> 740 Railway Labor Act                              | <input type="checkbox"/> 894 Energy Allocation Act                                     |
| <input type="checkbox"/> 210 Land Condemnation                                    | <input type="checkbox"/> 441 Voting                             | <input type="checkbox"/> 510 Motions to Vacate Sentence                 | <input type="checkbox"/> 790 Other Labor Litigation                         | <input type="checkbox"/> 895 Freedom of Information Act                                |
| <input type="checkbox"/> 220 Foreclosure  | <input type="checkbox"/> 442 Employment                         | <input type="checkbox"/> Habeas Corpus: Accommodations                  | <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act                   | <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice |
| <input type="checkbox"/> 230 Rent Lease & Ejectment                               | <input type="checkbox"/> 443 Housing/ Accommodations            | <input type="checkbox"/> 530 General                                    | <input type="checkbox"/> 861 HIA (1395f)                                    | <input type="checkbox"/> 950 Constitutionality of State Statutes                       |
| <input type="checkbox"/> 240 Torts to Land  | <input type="checkbox"/> 444 Welfare                            | <input type="checkbox"/> 535 Death Penalty                              | <input type="checkbox"/> 862 Black Lung (923)                               |  |
| <input type="checkbox"/> 245 Tort Product Liability                               | <input type="checkbox"/> 445 Amer. w/ Disabilities - Employment | <input type="checkbox"/> 540 Mandamus & Other                           | <input type="checkbox"/> 863 DIWC/DIWW (405(g))                             |  |
| <input type="checkbox"/> 290 All Other Real Property                              | <input type="checkbox"/> 446 Amer. w/ Disabilities - Other      | <input type="checkbox"/> 550 Civil Rights                               | <input type="checkbox"/> 864 SSID Title XVI                                 |  |
|   | <input type="checkbox"/> 440 Other Civil Rights                 | <input type="checkbox"/> 555 Prison Condition                           | <input type="checkbox"/> 865 RSI (405(g))                                   |  |
|   |   |   | <input type="checkbox"/> 460 Naturalization Application                     |  |
|   |   |   | <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee                 |  |
|   |   |   | <input type="checkbox"/> 465 Other Immigration Actions                      |  |
|   |   |   | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)            |  |
|   |   |   | <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609                    |  |
|   |   |   | <input type="checkbox"/> 710 Fair Labor Standards Act                       |  |
|   |   |   | <input type="checkbox"/> 720 Labor/Mgmt. Relations                          |  |
|   |   |   | <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act         |  |
|   |   |   | <input type="checkbox"/> 740 Railway Labor Act                              |  |
|   |   |   | <input type="checkbox"/> 790 Other Labor Litigation                         |  |
|   |   |   | <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act                   |  |
|   |   |   | <input type="checkbox"/> 861 HIA (1395f)                                    |  |
|   |   |   | <input type="checkbox"/> 862 Black Lung (923)                               |  |
|   |   |   | <input type="checkbox"/> 863 DIWC/DIWW (405(g))                             |  |
|   |   |   | <input type="checkbox"/> 864 SSID Title XVI                                 |  |
|   |   |   | <input type="checkbox"/> 865 RSI (405(g))                                   |  |
|   |   |   | <input type="checkbox"/> 460 Naturalization Application                     |  |
|   |   |   | <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee                 |  |
|   |   |   | <input type="checkbox"/> 465 Other Immigration Actions                      |  |
|   |   |   | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)            |  |
|   |   |   | <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609                    |  |
|   |   |   | <input type="checkbox"/> 710 Fair Labor Standards Act                       |  |
|   |   |   | <input type="checkbox"/> 720 Labor/Mgmt. Relations                          |  |
|   |   |   | <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act         |  |
|   |   |   | <input type="checkbox"/> 740 Railway Labor Act                              |  |
|   |   |   | <input type="checkbox"/> 790 Other Labor Litigation                         |  |
|   |   |   | <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act                   |  |
|   |   |   | <input type="checkbox"/> 861 HIA (1395f)                                    |  |
|   |   |   | <input type="checkbox"/> 862 Black Lung (923)                               |  |
|   |   |   | <input type="checkbox"/> 863 DIWC/DIWW (405(g))                             |  |
|   |   |   | <input type="checkbox"/> 864 SSID Title XVI                                 |  |
|   |   |   | <input type="checkbox"/> 865 RSI (405(g))                                   |  |
|   |   |   | <input type="checkbox"/> 460 Naturalization Application                     |  |
|   |   |   | <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee                 |  |
|   |   |   | <input type="checkbox"/> 465 Other Immigration Actions                      |  |

**V. ORIGIN** (Place an "X" in One Box Only)

- |   |   |  |   |  |   |  |
|---|---|--|---|--|---|--|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment |
|---|---|--|---|--|---|--|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 U.S.C. Section 1692**VI. CAUSE OF ACTION**Brief description of cause:  
Fair Debt Collection Practices Act**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE

DOCKET NUMBER

Explanation:

8-2-10

DATE

SIGNATURE OF ATTORNEY OF RECORD

## UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 365 Ash Lane, Hyden, KY 417419

Address of Defendant: 501 Prudential Road, Horsham, PA 19044

Place of Accident, Incident or Transaction: 365 Ash Lane, Hyden KY 417419  
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes  No

Does this case involve multidistrict litigation possibilities?

Yes  No

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes  No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes  No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes  No

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes  No

CIVIL: (Please  in ONE CATEGORY ONLY)

A. Federal Question Cases:

1.  Indemnity Contract, Marine Contract, and All Other Contracts
2.  FELA
3.  Jones Act-Personal Injury
4.  Antitrust
5.  Patent
6.  Labor-Management Relations

7.  Civil Rights

8.  Habeas Corpus

9.  Securities Act(s) Cases

10.  Social Security Review Cases

11.  All other Federal Question Cases 15 U.S.C §1692  
 (Please specify)

B. Diversity Jurisdiction Cases:

1.  Insurance Contract and Other Contracts
2.  Airplane Personal Injury
3.  Assault, Defamation
4.  Marine Personal Injury
5.  Motor Vehicle Personal Injury
6.  Other Personal Injury (Please specify)
7.  Products Liability
8.  Products Liability — Asbestos
9.  All other Diversity Cases

(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Thur Kimmel, counsel of record do hereby certify:

- Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- Relief other than monetary damages is sought.

DATE: 8-2-10

Attorney-at-Law

NOTE: A trial de-novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 8-2-10

Attorney-at-Law

57100

Attorney I.D.#

CIV. 609 (6/08)

57100

Attorney I.D.#

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Marilyn R. Feltner Collins : CIVIL ACTION  
v. :  
NCO Financial Systems, Inc. : NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

8-2-10  
Date

Craig Thur Kimmel  
Attorney-at-law

Marilyn R Feltner-Collins  
Attorney for

(215) 540-8888

800-863-1689

Kimmel@creditlaw.com

Telephone

FAX Number

E-Mail Address

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARILYN R. FELTNER COLLINS, Plaintiff v. NCO FINANCIAL SYSTEMS, INC., Defendant } Case No.: COMPLAINT AND DEMAND FOR JURY TRIAL (Unlawful Debt Collection Practices)

## **COMPLAINT**

MARILYN R. FELTNER-COLLINS ("Plaintiff"), by her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against NCO FINANCIAL SYSTEMS, INC. ("Defendant"):

## INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

## **JURISDICTION AND VENUE**

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1367 grants this court supplemental jurisdiction over the state claims contained therein.

3. Defendant conducts business in Pennsylvania and as such, personal jurisdiction is established.

- 1       4.     Venue is proper pursuant to 28 U.S.C. § 1331(b)(1).
- 2       5.     Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.
- 3
- 4

#### PARTIES

5       6.     Plaintiff is a natural person residing in Kentucky with a mailing address  
6 of 365 Ash Lane, Hyden, KY 41749.

7       7.     Plaintiff is a person granted a cause of action under the FDCPA. See 15  
8 U.S.C. § 1692k(a) and Wenrich v. Cole, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa.  
9 Dec. 22, 2000).

10      8.     Defendant is a national debt collection company with corporate  
11 headquarters located at 507 Prudential Road, Horsham, PA 19044.

12      9.     Defendant is a debt collector as that term is defined by 15 U.S.C. §  
13 1692a(6), and repeatedly contacted Plaintiff when seeking to collect a consumer  
14 debt from a different individual.

15      10.    Defendant acted through its agents, employees, officers, members,  
16 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
17 representatives, and insurers.

#### PRELIMINARY STATEMENT

21      11.    The Fair Debt Collection Practices Act (“FDCPA”) is a comprehensive  
22 statute, which prohibits a catalog of activities in connection with the collection of  
23 debts by third parties. See 15 U.S.C. § 1692 *et seq.* The FDCPA imposes civil  
24 liability on any person or entity that violates its provisions, and establishes general  
25 standards of debt collector conduct, defines abuse, and provides for specific

1 consumer rights. 15 U.S.C. § 1692k. The operative provisions of the FDCPA  
2 declare certain rights to be provided to or claimed by debtors, forbid deceitful and  
3 misleading practices, prohibit harassing and abusive tactics, and proscribe unfair or  
4 unconscionable conduct, both generally and in a specific list of disapproved  
5 practices.

6 12. In particular, the FDCPA broadly enumerates several practices  
7 considered contrary to its stated purpose, and forbids debt collectors from taking  
8 such action. The substantive heart of the FDCPA lies in three broad prohibitions.  
9 First, a “debt collector may not engage in any conduct the natural consequence of  
10 which is to harass, oppress, or abuse any person in connection with the collection  
11 of a debt.” 15 U.S.C. § 1692d. Second, a “debt collector may not use any false,  
12 deceptive, or misleading representation or means in connection with the collection  
13 of any debt.” 15 U.S.C. § 1692e. And third, a “debt collector may not use unfair  
14 or unconscionable means to collect or attempt to collect any debt.” 15 U.S.C. §  
15 1692f. The FDCPA is designed to protect consumers from unscrupulous  
16 collectors, whether or not there exists a valid debt, broadly prohibits unfair or  
17 unconscionable collection methods, conduct which harasses, oppresses or abuses  
18 any debtor, and any false, deceptive or misleading statements in connection with  
19 the collection of a debt.

20 13. In enacting the FDCPA, the United States Congress found that “[t]here is  
21 abundant evidence of the use of abusive, deceptive, and unfair debt collection  
22 practices by many debt collectors,” which “contribute to the number of personal  
23 bankruptcies, to marital instability, to the loss of jobs, and to invasions of  
24 individual privacy.” 15 U.S.C. § 1692a. Congress additionally found existing  
25

laws and procedures for redressing debt collection injuries to be inadequate to protect consumers. 15 U.S.C. § 1692b.

14. Congress enacted the FDCPA to regulate the collection of consumer debts by debt collectors. The express purposes of the FDCPA are to "eliminate abusive debt collection practices by debt collectors, to insure that debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses." 15 U.S.C. § 1692e.

## **FACTUAL ALLEGATIONS**

15. Defendant and others it retained began in 2009 constantly and continuously placing harassing and abusive collection calls to Plaintiff seeking and demanding payment for an alleged consumer debt that Plaintiff is entirely unfamiliar with.

16. Upon information and belief, the alleged debt Defendant was seeking to collect arose out of transactions which were primarily for personal, family, or household purposes.

17. Defendant and others it retained have repeatedly placed calls to Plaintiff's home telephone seeking the debt of an Amber Brock.

18. Defendant has never sent Plaintiff anything in writing, and has never validated the debt.

19. Moreover, Plaintiff has, numerous times, informed Defendant that the debt is not hers, and that she wished not to be called any further.

20. Defendant and others it retained were persistent in calling back, despite Plaintiff's requests that they cease.

21. For well over a year now, Defendant has continued to place harassing and invasive calls to Plaintiff's home telephone, demanding payment for a debt she knows nothing about.

22. The repetitive calls to Plaintiff were disturbing, harassing, an invasion of privacy, and entirely unnecessary.

## **CONSTRUCTION OF APPLICABLE LAW**

23. The FDCPA is a strict liability statute. Taylor v. Perrin, Landry, deLaunay & Durand, 103 F.3d 1232 (5th Cir. 1997). "Because the Act imposes strict liability, a consumer need not show intentional conduct by the debt collector to be entitled to damages." Russell v. Equifax A.R.S., 74 F. 3d 30 (2nd Cir. 1996); see also Gearing v. Check Brokerage Corp., 233 F.3d 469 (7th Cir. 2000) (holding unintentional misrepresentation of debt collector's legal status violated FDCPA); Clomon v. Jackson, 988 F. 2d 1314 (2nd Cir. 1993).

24. The FDCPA is a remedial statute, and therefore must be construed liberally in favor of the debtor. Sprinkle v. SB&C Ltd., 472 F. Supp. 2d 1235 (W.D. Wash. 2006). The remedial nature of the FDCPA requires that courts interpret it liberally. Clark v. Capital Credit & Collection Services, Inc., 460 F. 3d 1162 (9th Cir. 2006). “Because the FDCPA, like the Truth in Lending Act (TILA) 15 U.S.C § 1601 *et seq.*, is a remedial statute, it should be construed liberally in favor of the consumer.” Johnson v. Riddle, 305 F. 3d 1107 (10th Cir. 2002).

25. The FDCPA is to be interpreted in accordance with the "least sophisticated" consumer standard. See Jeter v. Credit Bureau, Inc., 760 F.2d 1168 (11th Cir. 1985); Graziano v. Harrison, 950 F. 2d 107 (3rd Cir. 1991); Swanson v. Southern Oregon Credit Service, Inc., 869 F.2d 1222 (9th Cir. 1988). The FDCPA

1 was not "made for the protection of experts, but for the public - that vast multitude  
2 which includes the ignorant, the unthinking, and the credulous, and the fact that a  
3 false statement may be obviously false to those who are trained and experienced  
4 does not change its character; nor take away its power to deceive others less  
5 experienced." Id. The least sophisticated consumer standard serves a dual purpose  
6 in that it ensures protection of all consumers, even naive and trusting, against  
7 deceptive collection practices, and protects collectors against liability for bizarre or  
8 idiosyncratic interpretations of collection notices. Clomon, 988 F. 2d at 1318.  
9

10

**COUNT I**  
**DEFENDANT VIOLATED THE**  
**FAIR DEBT COLLECTION PRACTICES ACT**

12 26. In its actions and methods in attempting to collect Brock's debt,  
13 Defendant violated the following aspects of the FDCPA:

- 14 a. Defendant, in communicating with Plaintiff for the purpose of  
15 acquiring location information about the consumer, stated that said  
16 consumer owes a debt, in violation of 15 USC 1692b(2);  
17 b. Defendant, despite being requested to stop, communicated with  
18 Plaintiff more than once in an effort to acquire location  
19 information about the consumer, in violation of 15 USC 1692b(3);  
20 c. Communicating with Plaintiff about a debt allegedly owed by  
21 another individual, namely Amber Brock, in violation of 15 USC  
22 1692c(b);  
23 d. Causing the telephone to ring and engaging Plaintiff in telephone  
24 conversation repeatedly and continuously with intent to annoy,  
25 abuse, or harass, in violation of 15 USC 1692d(5);

- 1 e. Using false, deceptive or misleading representations or means in  
2 connection with the collection of a debt, in violation of 15 USC  
3 1692e;
- 4 f. The use of unfair or unconscionable means to collect or attempt to  
5 collect any debt, in violation of 15 USC 1692f;

6 27. As a result of the above violations of the FDCPA, Defendant is liable to  
7 Plaintiff in the sum of Plaintiff's actual damages, statutory damages, and attorney's  
8 fees and costs.

9  
10 **WHEREFORE**, Plaintiff, MARILYN R. FELTNER-COLLINS, respectfully  
11 prays for a judgment as follows:

- 12 a. Declaratory judgment that Defendant's conduct violated the  
13 FDCPA;
- 14 b. All actual compensatory damages suffered pursuant to 15  
15 U.S.C. § 1692k(a)(1);
- 16 c. Statutory damages of \$1,000.00 for each violation of the  
17 FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- 18 d. All reasonable attorneys' fees, witness fees, court costs and  
19 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.  
20 § 1692k(a)(3); and
- 21 e. Any other relief deemed appropriate by this Honorable Court.

**JURY DEMAND**

Pursuant to Civil Rule 38, Plaintiff hereby demands a trial by jury on all issues in this action, and any issues relating to the amount of attorneys' fees and litigation costs to be awarded should Plaintiff prevail on any of her claims in this action.

RESPECTFULLY SUBMITTED,  
KIMMEL & SILVERMAN, P.C..

DATED: August 2, 2010

By: Craig Thor Kimmel  
Craig Thor Kimmel  
Attorney ID # 57100  
Kimmel & Silverman, P.C.  
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Ambler, PA 19002  
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Email: [kimmel@creditlaw.com](mailto:kimmel@creditlaw.com)